

Message Text

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ORIGIN EB-11

INFO OCT-01 AF-10 ARA-16 EUR-25 ADP-00 L-03 PCH-04 AID-20

CEA-02 CIAE-00 COME-00 EA-11 FRB-02 INR-10 IO-13

NEA-10 NSAE-00 RSC-01 OPIC-12 TRSE-00 CIEP-02 LAB-06

SIL-01 OMB-01 INT-08 SCEM-02 H-03 PM-07 NSC-10 SS-15

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EUR/WE - MR. BEIGEL

AF/N - MR. LANE

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R 231421Z AUG 73

FM SECSTATE WASHDC

TO AMEMBASSY ROME

INFO AMEMBASSY BRASILIA

AMEMBASSY TRIPOLI

ALL OECD CAPITALS

AMEMBASSY MOSCOW BY POUCH

AMEMBASSY SOFIA BY POUCH

XMT AMEMBASSY ROME

C O N F I D E N T I A L STATE 167569

E.O. 11652: GDS

TAGS: ENRG, LY, ITSUBJECT: BUNKER HUNT NATIONALIZATION

REFS: (A) STATE 151918 NOTAL

(B) BRASILIA 4925 NOTAL

1. BUNKER HUNT JOINED BP IN TWO SUITS ON JULY 26 AGAINST

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ANIC, A SUBSIDIARY OF ENI, FOR TAKING DELIVERIES OF OIL

FROM THE NATIONALIZED BUNKER HUNT-BP CONCESSION IN LIBYA. OIL REPORTEDLY WAS LANDED AT GELA AND GENOA FROM SHIP "MARE AEGEUM." SIMILAR SUITS HAVE BEEN INSTITUTED AGAINST MONTEDISON (PARTLY-OWNED BY ENI AND IRI) SARAS, AND SOCIETA PETROLIFERA ITALIANA. HUNT ITALIAN COUNSEL, STUDIO CHIOMENTI, HAS DETAILS ON INDIVIDUAL SUITS.

2. RECENT LARG DEMANDS ON REMAINING US OIL COMPANIES OPERATING IN LIBYA HIGHLIGHT IMPORTANCE OF DISCOURAGING OTHERS FROM BUYING NATIONALIZED OIL FROM LARG. CONSISTENT WITH USG REPRESENTATION TO GOB AUTHORIZED REF A, (BEING

REPEATED TO REMAINING OECD CAPITALS, MOSCOW AND SOFIA), EMBASSY REQUESTED TO MAKE SIMILAR APPROACH TO GOI AT APPROPRIATELY HIGH LEVEL REGARDING ALLEGED PURCHASE OF BUNKER HUNT-BP OIL BY ENTITIES WHOLLY OR PARTIALLY OWNED BY GOI. IN YOUR REPRESENTATION REQUEST YOU MAKE FOLLOWING POINTS ORALLY:

(A) USG RECOGNIZES RIGHT OF SOVEREIGN STATES TO TAKE PROPERTY OWNED BY FOREIGN NATIONALS AND LOCATED WITHIN ITS TERRITORY IF SUCH TAKING IS ACCOMPANIED BY PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION, IS FOR A PUBLIC PURPOSE, AND IS NOT DISCRIMINATORY.

(B) NATIONALIZATION OF BH ON JUNE 11, 1973, WHICH LAW NO. 42 ANNOUNCED BY LIBYAN REVOLUTIONARY COMMAND COUNCIL SOUGHT TO EFFECT, DID NOT SATISFY THESE CRITERIA. AS PUBLIC STATEMENT ON JUNE 11 BY THE CHAIRMAN OF THE REVOLUTIONARY COMMAND COUNCIL AND AN OFFICIAL LARG COMMENTARY (BROADCAST BY RADIO TRIPOLI ON SAME DATE) ON LAW NO. 42 INDICATED, THE REASONS FOR BH NATIONALIZATION WERE POLITICAL REPRISAL AGAINST USG AND ECONOMIC COERCION AGAINST INTERESTS OF OTHER US NATIONALS DOING BUSINESS IN LIBYA. THESE REASONS DO NOT CONSTITUTE VALID PUBLIC PURPOSE AS REQUIRED BY ESTABLISHED PRINCIPLES OF INTERNATIONAL LAW BUT RATHER CONFIRM THAT LARG ACTION WAS ARBITRARY AND DISCRIMINATORY.

(C) THE TERMS OF LAW NO. 42 INCLUDE NO ASSURANCE
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THAT PROMPT, ADEQUATE, AND EFFECTIVE COMPENSATION WILL BE PAID TO HUNT. ACCORDINGLY, THERE IS NO REASON TO BELIEVE THAT COMPENSATION WHICH MEETS THESE CRITERIA WILL BE FORTHCOMING.

(D) OF CRUCIAL PRACTICAL IMPORTANCE IS FACT THAT NATIONALIZATION OF HUNT BY LARG IS RESULT IN PART OF LATTER'S SUCCESS IN FINDING BUYERS FOR CRUDE FROM PRE-

VIOUSLY NATIONALIZED BP CONCESSION. GOVERNMENTS OR THEIR INSTRUMENTALITIES WHICH BUY NATIONALIZED OIL ARE IN EFFECT ENCOURAGING AND CONDONING LARG IN ITS POLITICALLY-INSPIRED NATIONALIZATION POLICY.

(E) HUNT AND LARG HAD EACH APPOINTED ARBITRATORS FOR SETTLEMENT OF OPERATING DISPUTES ARISING FROM BP NATIONALIZATION IN DECEMBER 1971. LARG-APPOINTED ARBITRATOR INFORMED HIS COUNTERPART ON JULY 17 THAT HE HAD BEEN INSTRUCTED BY LARG TO TERMINATE ARBITRATION SINCE GOVERNMENT AND COMPANY HAD NOTHING FURTHER TO DISCUSS. HUNT HAD WANTED TO KEEP ARBITRATION CHANNEL OPEN AS BEST MEANS OF RESOLVING PROBLEMS BETWEEN COMPANY AND GOVERNMENT, INCLUDING ANY RELATED TO NATIONALIZATION.

MOREOVER, LAW NO. 42 SPECIFIES THAT DECISION ON ULTIMATE COMPENSATION TO BE REACHED BY LIBYAN COMMISSION WILL BE FINAL AND WITHOUT APPEAL. THE APPARENT FORECLOSURE OF ARBITRAL RECOURSE SPECIFIED IN CONCESSION CONTRACT FOR SETTLEMENT OF DISPUTES ARISING UNDER IT, IN RESPECT OF THE FOREGOING DISPUTES AND ON CHARACTER OF COMPENSATION, CONSTITUTES A DENIAL OF JUSTICE, OF ITSELF A DISTINCTIVE VIOLATION OF INTERNATIONAL LAW.

(F) IN LIGHT OF OUR VIEWS THIS MATTER, WHICH USG HAS MADE KNOWN TO LARG, WE REQUEST GOI, OR ANY ENTITY UNDER ITS CONTROL OR SUPERVISION, NOT TO BUY CRUDE OIL OR PRODUCTS DERIVED THEREFROM WHICH ORIGINATE FROM NATIONALIZED HUNT CONCESSION IN LIBYA. THIS REQUEST FOR GOI FOREBEARANCE IS BEING MADE AS A MATTER OF USG POLICY AND IS DISTINCT FROM LITIGATION CONCERNING TITLE TO THE OIL WHICH HAS BEEN INSTITUTED IN THE ITALIAN

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COURTS BY HUNT AND CONCESSION PARTNER, BP. ROGERS

NOTE BY OC/T: POUCHED MOSCOW AND SOFIA.

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